APPENDICES TABLE OF CONTENTS

Page

A. Opinion of
The Supreme Court of Georgia
filed on February 5, 2007 ..... 1a

B. Motion for Reconsideration
filed by Petitioner February 14, 2007 ..... 2a

C. Order of
The Supreme Court of Georgia
filed on April 10, 2007 ..... 11a

D. Order of
Superior Court of Cobb County
filed on January 30, 2006 ..... 12a

E. Order
Cobb County Georgia Superior Court
filed on September 20, 2000 ..... 18a

F. Emergency Order
Cobb County Georgia Superior Court
filed on March 2, 2000 ..... 20a

G. Agreed Order
Mississippi Chancery Court
September 5, 2000 ..... 23a

H. Opinion
Supreme Court of Georgia, Titelman v. Stedman,
277 Ga. 460, 461-462 (591 SE2d 774) (2003) 25a

Page

I. Extension of Time Granted By
Justice Thomas
July 5, 2007 ..... 33a

J. Order
Cobb County Georgia Superior Court
Filed on June 14, 2006 ..... 35a

K. Relevant provision of
The Termination of Parental Rights Statute,
O.C.G.A. § 15-11-94 ..... 39a

L. Relevant provision of
The Parental Power Statute,
O.C.G.A. § 19-7-1 (2007) 43a

M. Excerpted transcript from Final Hearing
Superior Court of Cobb County
December 19, 2005 ..... 47a

N. Excerpted transcript from *Ex Parte* Hearing
Superior Court of Cobb County
September 20, 2000 ..... 63a

O. Excerpted transcript from Hearing
Superior Court of Cobb County
October 4, 2000 ..... 68a

P. Juror's letter
May 2001 ..... 73a

Page

Q. Excerpt from report of
Lynn Brentnall, PhD
June 16, 1999 ..... 78a

R. Excerpt from letter of
Diane Pearce, PhD
August 31, 2000 ..... 79a

S. Excerpt from reports of
J. Donald Matherne, PhD
September 2, 2000 ..... 81a

APPENDIX A

SUPREME COURT OF GEORGIA
Case No. 507A0642, 507A0643

Atlanta February 5, 2007

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

WENDY J. TITELMAN V.
ANDREW CHARLES TITELMAN

From the Superior Court of Cobb County.

These cases arise originally out of the parties' 2000 divorce and appellee's subsequent Application for Contempt and Petition for Modification of Visitation, which the trial court granted on January 30, 2006. Appellant also filed numerous pleadings in the cases, seeking contempt, change of custody, transfer to juvenile court, to vacate a 2000 order and to dismiss appellee's petition, all of which the trial court also denied in separate orders dated January 30, 2006. Appellant filed 14 notices of appeal in each case (calling them "Notice of Discretionary Appeal"), but she never filed any applications for appeal in this Court. As applications for appeal are required to appeal orders in domestic relations cases these direct appeals hereby are dismissed. OCGA $ 5-6-35 (a) (2). All the Justices concur, except Hines, J., not participating.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia
Witness my signature and the seal of said court hereto affixed the day and year last above written.

/s/ Lynn M. Stickome, Chief Deputy Clerk

APPENDIX B

IN THE SUPREME COURT OF GEORGIA

ANDREW CHARLES TITELMAN Appellee v.	CASE NOS. S07A0642 & S07A0643
WENDY JANE TITELMAN Appellant COUNTY	ON APPEAL FROM THE COBB
	SUPERIOR COURT TRIAL COURT CIVIL ACTION NOS. 00-18035-33 & 98-15890-33

MOTION AND POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR RECONSIDERATION AND REINSTATEMENT OF APPEALS

Comes now Wendy J. Titelman, Appellant in the above-mentioned actions, by and through undersigned counsel, and respectfully files this Motion for Reconsideration and Reinstatement of Appeals pursuant to Supreme Court Rule 27, based on the on the grounds that the issues presented in the court orders under review constitute a *de facto* termination of Mrs. Titelman's parental rights without due process of law.

1. INTRODUCTION

The court orders under review constitute a *de facto* termination of Mrs. Titelman's parental rights without due process of law. In particular, between September, 2000 and January, 2006, the lower court prevented Mrs. Titelman from visiting with her minor children under the aegis of a "temporary" order issued as a result of an *ex parte* hearing

held on September 20, 2000. During these five and a half years, the court failed to conduct any final hearing, failed to apply the "clear and convincing evidence" legal standard, and failed to make any findings of fact or conclusions of law, as required by federal and Georgia state law. As a result, the court effectively and unlawfully terminated Mrs. Titelman's parental rights in her natural children.

2. STATEMENT OF FACTS

Pursuant to a Decree of Divorce ("Divorce Decree") involving the parties entered on August 10, 2000, the Appellee, Andrew Titelman, received sole legal and physical custody of the parties' two minor children. Mrs. Titelman retained visitation rights. See Appellant's Exhibit A. Less than one month after the Divorce Decree, on or about September 5, 2000, Mr. Titelman filed an Emergency Application for Contempt in the lower court. This Emergency Application requested that the Court deny Mrs. Titelman any further visitation with her children. On September 20, 2000, the court held an *ex parte* hearing and issued an *ex parte* Order ("September 20, 2000 Order") preventing Mrs. Titelman and her family from coming within 3,000 yards of the Titelman children. See Appellant's Exhibit B.

On or about October 4, 2000, a hearing was held before Judge Bodiford on Mr. Titelman's Application for Contempt. During the hearing, counsel for Mrs. Titelman challenged the September 20, 2000 Order. See Appellant's Exhibit C at 54. At the conclusion of the hearing, the Court concluded that it would hold a hearing on the continued efficacy of the September 20, 2000 Order. See id. at 55-56. In the interim, the Court accepted an agreement among the parties that Mrs. Titelman would have no contact with her children for "at least two weeks," thereby effectively

keeping the terms of the September 20 Order in effect for that period of time. See id. at 62.

After that two week period, Mrs. Titelman thereafter made repeated attempts to rectify the deprivation of her parental rights without a lawful court order, all to no avail. Her counsel mailed a letter dated October 19, 2000, and proposed order to Judge Bodiford to "reinstate" Mrs. Titelman's visitation rights. See Appellant's Exhibit D. The Court denied counsel's request. Almost two years later there was still no hearing scheduled. On July 17, 2003, more than two and a half years after Mrs. Titelman last had access to her children, Mrs. Titelman filed a Motion to Vacate and Dissolve Restraining Order Dated September 20, 2000. See Appellant's Exhibit E. Thereafter, the Court took no action on Mrs. Titelman's motion.[1]

The Court did not conduct a final hearing on one of Mr. Titelman's Motion for Contempt until December 19, 2005, and did not enter a valid order thereon until January 30, 2006.[2] See Appellant's Exhibit F. In the interim, from September 20, 2000, through January 30, 2006, the court denied Mrs. Titelman due process of law and, based entirely on an *ex parte* hearing, stripped Mrs. Titelman of a fundamental right – access to her natural children.

---

[1] In fact, Mrs. Titelman is not aware of any order directly addressing the merits of her Motion to Vacate and Dissolve Restraining order Dated September 20, 2000.

[2] The January 30, 2006 Order states, in pertinent part, that "this Court's Order on Plaintiff's October 11, 2000 Application for Contempt and Petition for Modification of Visitation shall govern custody and visitation of [Appellant's children]." Notwithstanding the literal import of that language, Appellant respectfully submits that the lower court did NOT issue any order resulting from Plaintiff's aforementioned pleading until January 30, 2006.

3. ARGUMENT

On February 5, 2007, this Court terminated the above-captioned appeals on the grounds that Mrs. Titelman had failed to file any applications for appeal with this Court. See Appellant's Exhibit G. In fact, the Court erred in dismissing these appeals because Mrs. Titelman qualifies for a direct appeal. In particular, the orders at issue terminated her parental rights, which is a deprivation directly appealable to this Court. Therefore, the Court should vacate its order dated February 5, 2007, and reinstitute this matter for further proceedings on the merits. See In the Interest of J.P., 267 Ga. 492, 480 S.E.2d 8 (1997) (finding deprivation findings directly appealable).

I. The September 20 Order Terminated Appellant's Parental Rights Without Due Process of Law and In Violation of Georgia Statutory Law.

There is no question that the *ex parte* September 20 Order, the procedurally and legally deficient order underlying this appeal, deprived Mrs. Titelman of her parental rights for more than five years. In particular, the stay-away directive contained in the September 20 Order, coupled with the Divorce Decree vesting legal and physical custody in Appellee, unequivocally represents a *de facto* interference with and deprivation of Mrs. Titelman's parental rights in her natural children. In the instant case, the juridical status between Mrs. Titelman and her children remained unchanged after the September 20, 2000 order. In contrast, Mrs. Titelman's effective relationship with her natural children was not only compromised but, in fact, severed after the *ex parte* hearing and the September 20 Order.

As a result, the September 20 Order is legally deficient because it does not contain any of the analysis that Georgia law requires before a court can terminate parental rights. See Ga. Code Ann. § 15-11-94 (2007). Specifically, Georgia law requires that the court find by clear and convincing evidence that specified parental misconduct has occurred. Such parental misconduct includes: (1) parental failure for more than a year to pay child support or spousal ordered by a court of competent jurisdiction (§ 15-11-94 (b)(1)-(2)), (2) parental abandonment of the minor child(ren) § 15-11-94(b)(3), (3) parental misconduct as defined in the statute (§ 15-11-94(b)(4)), or (4) a parent has murdered the other parent (§ 15-11-94(b)(5)).

It is also clear that Georgia law favors, to the extent possible, preserving the relationship between the non-custodial parent and the minor child(ren) even in the context of a deprivation proceeding. For instance, Georgia law specifically requires the terminating court to consider whether the parental "misconduct" at issue has continued for a period of twelve months notwithstanding a court plan to reunite the parent and child(ren). See id., § 15-11-94 (b)(4)(C).

Here, no court has made the required findings of fact and conclusions of law, applying the clear and convincing evidence standard, to show that a deprivation has occurred and that termination of parental rights is warranted. No Court has found that Ms. Titelman is an unfit parent. No court has found that she failed to pay child support, engaged in material misconduct that has continued unabated for a period of twelve months, or that she has murdered her former spouse. Notwithstanding the absence of such findings, she was ordered not to see or contact her children. In the Interest of J.D.F., 277 Ga. App. 424, 626 S.E.2d 616, (2006) ("Termination of parental rights

is a remedy of last resort that cannot be sustained where there is no clear and convincing evidence that the cause of the deprivation is likely to continue.").

When a parent's rights to his child have been severed, as they have with Mrs. Titelman, the discretionary appeal procedure is not required. A right to direct appeal lies from the final order. Ga. Divorce, Alimony, & Child Custody § 22:18, 2007; *O.C.G.A. § 5-6-34.*

II. Appellant's Constitutional Rights Have Been Violated, and This Court Should Not Dismiss Appellant's Appeals on Technical Grounds.

There is no legitimate dispute here that Mrs. Titelman has a constitutional right to her parental interests in her child(ren), and that deprivation of those rights requires due process of law. Compare Troxel v. Granville, 530 US 57, 67 (2000) with Nodvin v. Nodvin, 235 Ga. 708, 708, 221 S.E.2d 404, 404 (1975); In re M.H.W., 277 Ga. App. 318, 626 S.E.2d 515 (2006); In the Interest of J.D.F., 277 Ga. App. 424, 626 S.E.2d 616, (2006). "Because no judicial determination has more drastic significance than the permanent severance of a parent-child relationship, the severance of that relationship must be exercised cautiously and scrutinized deliberately." In the Interest of K.M., 240 Ga. App. 677, 679-80, 523 S.E.2d 640 (1999).

This constitutional right is a fiercely guarded right that should be infringed upon only under the most compelling circumstances. Based on this liberty interest, for example, the Court has concluded that parents have the right to establish a home, direct the upbringing of their children, and control their children's education,_ and the state may not sever the rights of parents in their natural child in a neglect proceeding unless it proves by clear and

convincing evidence that the parents are unfit to raise their children." Clark v. Wade, 273 Ga. 587, 544 S.E.2d 99 (2001).

Nor should courts decide matters affecting the welfare of children, or the status of parental rights, on technical grounds alone. See Troxel, 530 U.S. at 67. In Santosky v. Kramer, 455 U.S. 745 (1982), the Supreme Court stated:

> When blood relationships are strained, parents retain vital interest in preventing irretrievable destruction of their family life; if anything, persons faced with forced dissolution of their parental rights have more critical need for procedural protections than do those resisting state intervention into ongoing family affairs [emphasis added].

Since 2000, the Georgia courts have failed to provide Ms. Titelman the procedural protection constitutionally due to her and to her children. In fact, the court's use of a contempt process to deprive a mother any contact with her children without lawful process for more than five years reflects a punitive intent which warrants further review on appeal. For these reasons, the Court should vacate its order dated February 5, 2007, and permit Ms. Titelman to proceed with the merits of her appeals.

CONCLUSION

Based on the foregoing reasons, and based on any other reasons that the Court deems just, proper, and equitable, Appellant respectfully prays that this Honorable Court reinstate the appeals sought in Case Nos. S07A0642 & S07A0643, consolidate the 14 orders at issue in this case into a single appeal, and grant an enlargement of time for Appellant to file a brief for these matters.

In the event that this Court deems that any of these orders should be subject to discretionary appeal, Appellant respectfully requests that an extension of time be granted and that she be allowed an additional 20 days to file an application for appeal pursuant to the rule.

Respectfully submitted,

/s/ Russell C. Ford
RUSSELL C. FORD
Georgia Bar ID# 268177
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000

Of Counsel:

Jonathan N. Rosen
Noam B. Fischman
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004
(202) 434-7300

CERTIFICATE OF SERVICE

I hereby certify that on this the 14th day of February, 2007, I caused a true and correct copy of the foregoing Motion And Points and Authorities In Support of Motion for Reconsideration and Reinstatement of Appeals to be served on the counsel for Appellee, as indicated below:

Via First Class Mail, Postage Pre-Paid:
John C. Mayoue, Esq.
Pamela J. Gray, Esq.
Dennis G. Collard, Esq.
Riverwood 100 Building
Suite 2300
3350 Riverwood Parkway
Atlanta, Georgia 30339

Richard W. Schiffman, Jr., Esq.
14th Floor Lenox Towers II
3400 Peachtree Road, NE
Atlanta, GA 30326

/s/ Russell C. Ford, Esq.

APPENDIX C

SUPREME COURT OF GEORGIA

Case No. 507A0642 Atlanta, April 10, 2007

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WENDY J. TITELMAN V. ANDREW CHARLES TITELMAN

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.
All the Justices concur, except Hines, J., not participating.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Therese S. Barnes, Clerk

APPENDIX D

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

ANDREW CHARLES TITLEMAN,

Plaintiff,

CIVIL ACTION
FILE NO. 98-1-5890-33

vs.

WENDY J. TITLEMAN,

CIVIL ACTION
FILE NO. 00-108035-33

Defendant.

ORDER

Having reviewed briefs and heard oral arguments on Plaintiff's October 11, 2000 APPLICATION FOR CONTEMPT AND PETITION FOR MODIFICATION OF VISITATION, First Amendment filed February 1, 2001, Second Amendment filed September 22, 2001 and Third Amendment filed August 19, 2005, the Court finds the following:

1.

On or about September 1, 2000, Defendant removed ALEXANDRA ROSE TITELMAN and JENNIFER ELIZABETH TITELMAN (hereinafter, the "Children") to Harrison County, Mississippi in willful contempt of the August 10, 2000 Final Judgment and Decree of this Court (hereinafter, the "Final Judgment and Decree").

2.

Plaintiff incurred expenses related to the travel of his counsel, the guardian ad litem, the custodial evaluator and the children's therapist to Harrison County, Mississippi to effect the safe return of the Children to the jurisdiction of this Court.

3.

Due to Defendant's conduct subsequent to entry of the Final Judgment and Decree, Defendant lacks credibility as a litigant and witness before this Court; the Court is distrustful of Defendant; the Court is in fear for the safety and wellbeing of the Children with regard to the conduct of Defendant; the Court is in fear that Defendant would, in violation of any Order issued by the Court, again remove the Children from the jurisdiction of the Court.

4.

Defendant failed to pay one-half of the Children's medical expenses not covered by insurance as required by the Final Judgment and Decree, in willful contempt of the power and authority of this Court.

5.

Defendant failed to pay one-half of the Children's therapy sessions with Lorita Whitaker, LCSW, as required by the Final Judgment and Decree, in willful contempt of the power and authority of this Court.

6.

Defendant failed to assume or refinance the mortgage on the real property commonly known as 2179 Shillings Chase, Kennesaw, Cobb County, Georgia, 30152 (hereinafter, "2179 Shillings Chase") as required by the Final Judgment and Decree, in willful contempt of the power and authority of this Court.

7.

Defendant failed to pay expenses related to 2179 Shillings Chase as required by the Final Judgment and Decree, in willful contempt of the power and authority of this Court.

8.

Defendant failed to pay Plaintiff one-half of the net equity in 2179 Shillings Chase as required by the Final Judgment and Decree, in willful contempt of the power and authority of this Court.

9.

Due to Defendant's refusal to refinance the mortgage on 2179 Shillings Chase, Plaintiff, to protect his standing with creditors, paid mortgage principal and interest due on such property subsequent to entry of the Final Judgment and Decree.

10.

Due to Defendant's abandonment of 2179 Shillings Chase, Plaintiff paid all expenses related to the upkeep and maintenance of such property subsequent to entry of the Final Judgment and Decree.

11.

In Order to obtain the fair market value of 2179 Shillings Chase, Plaintiff commissioned an appraisal of such property, as required by the Final Judgment and Decree.

IT IS THEREFORE HEREBY ORDERED AND ADJUDGED that Defendant is held in willful contempt of the power and authority of this Court for removing the Children from the jurisdiction of the Court on or about September 1, 2000; Plaintiff shall retain temporary sole legal and physical custody of the Children, during such temporary period, Defendant shall have no visitation with the Children and Defendant and all members of Defendant's family are enjoined and prohibited from communicating in any manner with the Children, being within 3,000 yards of the Children, or directing any third party to communicate or physically approach the Children; the custody and visitation provisions of this Order shall be effective for a period of ninety (90) days from December

19, 2005; if, on or before the expiration of such ninety (90) day period, Defendant pays into the registry of the Court the sum of TEN THOUSAND DOLLARS ($10,000.00) and obtains a cash bond in the amount of FIVE HUNDRED THOUSAND DOLLARS ($500,000.00), the Court shall thereafter set a hearing on the sufficiency of the $500,000.00 bond for the purposes described herein, and, if the bond is found to be sufficient, the Court will thereafter entertain a hearing on the appointment of a guardian ad litem (hereinafter, "GAL"); should the Court appoint a GAL, the Court will enter an Order specifying the role and duties of the GAL; Defendant's $10,000.00 deposit into the registry of the Court and the $500,000.00 bond shall, (a) serve to satisfy attorney's fees and costs of litigation associated with any legal proceedings brought against the GAL by any person or entity in any court or tribunal of any jurisdiction, including disciplinary proceedings before any State Bar, associated with his or her duties as GAL of the Children, and (b) serve to satisfy any orders or judgments rendered against Defendant subsequent to entry of this Order, including but not limited to monetary judgments in favor of Plaintiff; should Defendant fail to deposit $10,000.00 into the registry of the Court and/or fail to obtain the herein described $500,000.00 bond on or before the expiration of ninety (90) days from December 19, 2005, then the custody and visitation provisions of this paragraph shall become the final Order of the Court.

IT IS FURTHER HEREBY ORDERED AND ADJUDGED that Defendant is held in willful contempt of the power and authority of this Court for failure to comply with the herein described financial provisions of the Final Judgment and Decree and that, within thirty (30) days of the signing of this order, Defendant shall pay to Plaintiff the following sums: (a) $59,944.32 in mortgage principal and interest on 2179 Shillings Chase paid by Plaintiff, (b) $7,662.14 in fees paid by Plaintiff to halt foreclosure

proceedings on 2179 Shillings Chase, (c) $1,775.00 for maintenance and upkeep of 2179 Shillings Chase, (d) $28,045.07 as one-half of the net equity in 2179 Shillings Chase, (e) $137.50 for one-half of the cost of the appraisal of 2179 Shillings Chase, (f) $24,384.15 in costs paid by Plaintiff related to Defendant's unlawful removal of the Children to Harrison County, Mississippi. Such monies owed by Defendant to Plaintiff shall be reduced by the following monies owed by Plaintiff to Defendant pursuant to the Final Judgment and Decree; (a) $33,063.50 for division of the Principal Financial Deferred Compensation Account and (b) $4,247.50 as one-half of the cash surrender value of the Time/Fortis Life Insurance Policy. The provisions of this paragraph are the final Order of the Court.

IT IS FURTHER HEREBY ORDERED AND ADJUDGED that, within seven (7) business days of December 19, 2005, Plaintiff shall mail Defendant proof of medical and therapy costs not covered by insurance that were incurred subsequent to August 10, 2000. Within thirty (30) days of Defendant's receipt of such proof, Defendant shall pay to Plaintiff one-half of all such uncovered medical and therapy expenses, to wit: the sum of $3,880.79 for one-half of medical expenses not covered by insurance, and the sum of $10,300.00 for one-half of the cost of therapy sessions not covered by insurance.

SO ORDERED this the 30th day of January, 2006.

/s/ James G. Bodiford
JAMES G. BODIFORD
CHIEF JUDGE
COBB COUNTY SUPERIOR COURT

Presented by:
WARNER, MAYOUE, BATES & NOLEN, P.C.

/s/ Dennis G. Collard
DENNIS G. COLLARD
Georgia Bar No. 178101
Attorney for Plaintiff
Riverwood 100 Building
Suite 2300
3350 Riverwood Parkway
Atlanta, Georgia 30339
(770) 951-2700

CERTIFICATE OF SERVICE

This is to certify that I have delivered via U.S. Mail a copy of the foregoing Order to the following:

Wendy Titelman
P.O. Box 653
Woodstock, NY 12498

John Mayoue
Dennis Collard
Pamela Gray
Riverwood 100 Bldg., Ste. 2300
3350 Riverwood Parkway. S.E.
Atlanta, GA 30339

This 30th day of January.

/s/ Leanne E. Dolan
Law Clerk to Chief Judge James G. Bodiford
Cobb Superior Court

APPENDIX E

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

ANDREW CHARLES TITLEMAN
Plaintiff

VS.

WENDY J. TITLEMAN
Defendant

CIVIL ACTION
NUMBER
98-1-5890-33

ORDER

The within and foregoing matter having come before this Court, September 20, 2000, for an emergency hearing on the Guardian Ad Litem's Motion. The following individuals having been present, Diane Woods, Guardian Ad Litem; George Washington, Supervisor of Cobb County Department of Children Services; Andrew Titleman; Pam Gray and John Mayoue, Attorneys for Mr. Titleman. Wendy J. Titleman having notified the Court by both calling and faxing a letter on this date having requested a continuance in this matter. The Court hereby DENIES said request for continuance.

The Court having heard the report from the Guardian Ad Litem and testimony from George Washington and having received a written report from H. Elizabeth King, PHD the Court hereby returns the minor children to the custody of Andrew Titleman. Andrew Titleman shall have custody pursuant to the Emergency Order of March 2, 2000 and the final judgment and decree of August 4, 2000.

It is ordered that Wendy Titleman shall have NO VISTATION OR TELEPHONE CONTACT with the minor

children until further order of this court. It is further ordered that Mrs. Titleman and her relatives are hereby restrained and enjoined from being within 3,000 yards of the children, the father, or the father's extended family members.

It is further ordered that the father can and shall have visitation with the minor children at their school. It is further ordered that the Guardian Ad Litem shall retain in her files all reports, records, and court documents generated as a result of the Mississippi Court's intervention.

SO ORDERED this the 20th day of September, 2000.

/s/ James G. Bodiford
JAMES G. BODIFORD
JUDGE
COBB SUPERIOR COURT

PRESENTED BY;

/s/ Diane Woods
DIANE WOODS
GUARDIAN AT LITEM

APPENDIX F

IN THE SUPERIOR COUFT OF COBB COUNTY
STATE OF GEORGIA

ANDREW C. TITLEMAN,
PLAINTIFF,

v.

WENDY J. TITLEMAN,
DEFENDANT.

CIVIL ACTION

FILE NO. 98-1-05890-33

EMERGENCY ORDER

The within and foregoing matter having come before the Court on the Guardian ad Litem's motion for emergency hearing and the court having received testimony from the court-appointed custody evaluator and having heard argument by both counsel for the Plaintiff and the Guardian ad Litem, the following is the Order of the Court until further hearing in said matter:

1.

The Court's previous Order granting Plaintiff and Defendant joint legal and physical custody is hereby modified in that Plaintiff shall now be the children's primary physical custodian and the children shall reside exclusively with Plaintiff.

2.

Defendant shall have supervised visitation with the minor children on Monday nights from 6:00 p.m. until 8:00 p.m., on Thursday nights from 6:00 p.m. until 8:00 p.m., and on Sundays from 10:00 a.m. until 6:00 p.m. Supervision shall be provided by an individual approved

by the Guardian ad Litem. Visitation supervisors shall not permit the Defendant to speak with the minor children about the merits of this pending action or any event, individual, or allegation associated with this matter. The expense of supervision shall be paid from the parties' funds on deposit in the escrow account of Defendant's attorney. The issue as to how these expenses shall be apportioned will be reserved until final hearing by the Court.

3.

Defendant shall have the opportunity to speak with the minor children over the telephone on Tuesdays, Wednesdays, Fridays, and Saturdays between the hours of 7:00 p.m. until 8:00 p.m., with the understanding that the Plaintiff will monitor the telephone calls and will discontinue the telephone calls if Defendant speaks with the minor children about the merits of this pending action or any event, individual, or allegation associated with this matter. Both the Plaintiff and the Defendant shall have the right to tape record these conversations. Neither of the parties nor their designees nor representatives shall cause the children to be videotaped.

4.

Neither parent shall visit the children at their school and only the Plaintiff or his designee shall have the right to remove the children from their classes or from school property.

5.

Within a reasonable period of time the Guardian ad Litem shall meet with the minor children and explain to them in an age-appropriate manner the actions taken by the Court. Furthermore, the Guardian ad Litem shall

timely notify the children's school of the relevant terms of this Emergency Order.

6.

The minor children shall remain in counseling with H. Elizabeth King, Ph.D.

SO ORDERED this 2nd day of March, 2000.

/s/ James G. Bodiford
JAMES G. BODIFORD, JUDGE
SUPERIOR COURT OF COBB COUNTY

Presented by:

/s/ Diane Woods
Diane Woods, Guardian ad Litem
State Bar Number 533070
HUFF, WOODS AND HAMBY
707 Whitlock Avenue, G-5
Marietta, Georgia 30064-3033
770-429-1001

Consented to as to form:
/s/ Pamela J. Gray
Attorney for Plaintiff
State Bar Number 101135
WARNER, MAYOUE & BATES
Riverwood 100 Bui'ding
3350 Riverwood Parkway, Suite 2300
Atlanta, Georgia 30339

/s/ Hylton B. Dupree, Jr. (w/express permission by
Attorney for DefendantD. Woods)
State Bar Number 234600
DUPREE, JOHNSON, POOLE & KING
P.O. Box 525
Marietta, Georgia 30060

APPENDIX G

IN THE CHANCERY COURT
OF HARRISON COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

WENDY TITELMAN	PLAINTIFF
vs.	NO. 00-02200
ANDREW CHARLES TITELMAN	DEFENDANT

AGREED ORDER

There came on for hearing the above cause on the 15th of September, 2000, upon the emergency *Ex Parte* Relief, and the Court having reviewed the matter and the argument of counsel, and the parties having stipulated to and agreed on this Order, the Court does herein find, order and adjudge as follows:

The Court has jurisdiction over this matter only on an Emergency basis. The Court has no jurisdiction under the PKPA or the UCCJA to enter any sort of permanent order or modification. This court recognizes and grants full faith and credit to the judgments of the State of Georgia pertaining to these two parties.

That temporary legal and physical custody of the two minor children: Alexandra and Jennifer Titelman, be and is hereby granted unto the Georgia Guardian ad Litem (GAL), J. Diane Woods, Esq., and said child shall be immediately released unto her. The Harrison County Family Court Shelter facility is hereby authorized to release said children unto said GAL.

The Gal is hereby ordered and directed to:

Not turn over the children to either of the parents without a further court order from the State of Georgia.

Report to the Georgia Department of Children and Family Services and the judge who is assigned to this case, Hon. James Bodiford, all allegations of abuse or neglect raised by the mother. Further, the GAL shall deliver to the Georgia Department of Children and Family Services and the judge all reports and narratives of Dr. Donald Matherne.

That this court declines further jurisdiction and defers all further actions regarding these children to the appropriate courts of Georgia. The actions of this court were and are designed to protect the best interests of the children consistent with both federal and state law regarding interstate custody disputes. This court takes no position as to the truth or lack thereof as to the allegations raised, however, the court has acted to provide an appropriate and legal forum in which to decide these issues. The court notes that the children have not resided in this state for six months, there are no minimum contacts with this state, no allegations – even if true – are alleged to have occurred in the State of Mississippi.

The GAL consents to this order and agreed to abide by the terms herein. No one shall discuss the allegations of abuse without permission from the courts of Georgia.

So ordered and Adjudged, this the 15th day of September, 2000.

/s/ Wesley Teal
CHANCELLOR

APPROVED AND AGREED TO:

/s/ Wendy Titelman
PLAINTIFF

/s/ Andrew Titelman
DEFENDANT

/s/ Diane Woods
GUARDIAN AD LITEM

APPENDIX H

SUPREME COURT OF GEORGIA
Case No. S03A1159.

Atlanta Dec 1 2003

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

WENDY J. TITELMAN et al. v.
COBB COUNTY JUVENILE COURT

It is ordered that the style of this case be corrected to read as follows:

WENDY J. TITELMAN et al. v.
JUANITA STEDMAN, PRESIDING JUDGE

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia
Witness my signature and the seal of said court hereto affixed the day and year last above written.

/s/ Lynn M. Stinchcomb, Chief Deputy Clerk

In the Supreme Court of Georgia

Decided: DEC 1 2003

S03A1159, TITELMAN et al. v. STEDMAN

CARLEY, Justice.

After Ms. Wendy J. Titelman lost custody of her two daughters to their father, she and others presented to the Juvenile Court of Cobb County for filing a petition for adjudication of deprivation. Appellants subsequently filed a petition for mandamus in superior court, alleging that Judge Juanita Stedman (Appelee) refused to allow filing of the deprivation petition or to sign any order or provide any other written documentation of the denial of filing. The superior court dismissed the petition for mandamus, finding that such relief was not appropriate. Appellants appeal from this order.

Under the Civil Practice Act (CPA), "[e]xcept when otherwise specifically provided by statute, all judgments shall be signed by the judge and filed with the clerk." OCGA § 9-11-58 (a). This portion of the statute was adopted verbatim in Uniform Juvenile Court Rule 17.1. See English v. Milby, 233 Ga. 7, 9-10(1)(209 SE2d 603) (1974) (sections of the CPA may be adopted for the juvenile courts). Very similar language is also found in the Appellate Practice4 Act (APA): "The filing with the clerk of a judgment, signed by the judge, constitutes the entry of a judgment within the meaning of" the APA. OCGA § 5-6-31. Under the case law, "[it is best to think of three requirements. The adjudication must be reduced to (1) writing, then (2) signed by the judge and finally, (3) filed with the clerk of the court." Gregory, Ga. Civil Practice § 7-4, p. 574 (2d ed. 1997). "'What the judge orally declares is no judgment until it has been put in writing and entered

as such.'" [Cit.]" State v. Sullivan, 237 Ga. App. 677, 678 (516 SE2d 539) (1999) (involving "[t]he oral declaration of [a] juvenile judge").

Furthermore, "[t]he filing with the clerk of a judgment, signed by the judge, constitutes the entry of the judgment, and, unless the court otherwise directs, no judgment shall be effective for any purpose until the entry of the same...." OCGA § 9-11-58 (b). See also Uniform Juvenile Court Rule 17.1. ""[U]ntil an order is signed by the judge (and is filed) it is ineffective for any purpose." (Cit.)' [Cit.]" State v. Sullivan, supra at 678. Therefore, this Court has held that, under the CPA, "[t]here can be no appeal from an oral announcement that a judgement will be rendered, since no judgment is effective until it is signed by the judge and filed with the clerk. [Cit.]" Crowell v. State, 234 Ga. 313 (215 SE2d 685) (1975). This rule is also compelled by force of the APA

> Under [that] Act the well established rule that "what the judge orally declares is no judgment until it has been put in writing and entered as such," is still of force, and both a written judgement and its entry by filing the writing with the clerk are essential prerequisites to an appeal. [Cits.]

Boynton v. Reeves, 226 Ga. 202, 203 (173 SE2d 702) (1970). Accordingly, "'(i)t is elementary that an oral order is not final nor appealable until and unless it is reduced to writing, signed by the judge, and filed with the clerk.' [Cits.]" (Emphasis supplied.) Smith v. State, 242 Ga. App. 459 (530 SE2d 223) (2000). Continued adherence to this rule is supported and mandated not only by statutes and cases, but by the rationale underlying it: ""'In the absence of a judgment in writing no question for decision is presented to the appellate court. (Cits.)'" [Cit.]' Bishop v. State, 176 Ga. App. 357, 358 (335 SE2d 742) (1985). See also

Seabolt v. Seabolt, 220 Ga. 181 (1) (137 SE2d 642) (1964). That rationale applies equally whether a trial court precludes further legal proceedings by fuling on the merits of a proceeding filed in that court or by denying the filing of a petition or other pleading.

OCGA § 9-11-58 (a) and Uniform Juvenile Court Rule 17.1 mandate that the trial judge, in the absence of an explicit statutory exception, sign "all judgments ...." Indeed, in an appeal purportedly from an oral ruling, this Court remanded the case and required the trial court to enter a written judgment, without prejudice to the right to file a subsequent appeal. Crowell v. State, supra. Thus, trial courts have a clear legal duty to enter all of their judgments, including those which deny the filing of an initial pleading.

Because the trial court's entry of a written order denying filing is an appealable judicial act, mandamus is not an available means of reviewing the propriety of that ruling. Barber Fertilizer Co. v. Chason, 265 Ga. 497 (458 SE2d 631) (1995). See also Grier v. Peed, 276 Ga. 521, 522 (578 SE2d 861) (2003); Smith & Wesson Corp. v. City of Atlanta, 273 Ga. 431, 433-434 (1) (543 SE2d 16) (2001). However, mandamus is an available remedy for a trial court's failure to carry out an administrative act, "when 'the law has prescribed and defined the duty to be performed with such precision and certainty as to leave no room for the exercise of judgment or discretion.' [Cit.]" Henderson v. McVay, 269 Ga. 7-8 (1) (494 SE2d 653) (1998). OCGA § 9-11-58 (a), Uniform Juvenile Court Rule 17.1, and applicable case law do not leave a trial court any room to exercise its discretion by orally announcing a judgment, but declining to enter it. Furthermore, where a trial judge refuses to permit the filing of a petition and fails to perform her clear legal duty to enter a written order, an appeal is not possible. In that circumstance, therefore,

mandamus is appropriate, not to review the propriety of the denial of filing, but to compel the trial court to enter a written order form which an appeal can be taken. Compare Grier v. Peed, supra at 521.

In their petition for mandamus, Appellants did not only assert that the denial of filing of the deprivation petition was erroneous. They also complained of Appellee's refusal to sign any order or to provide any other written documentation of the denial of filing, and prayed that a writ of mandamus be issued ordering her to dispose of the deprivation petition according to law and to grant all other proper relief. Under these allegations, relief is available to Appellants in the form of an order that requires Appellee either (1) to sign and file with the clerk a written order denying filing of the deprivation petition, or (2) to permit the petition to be filed and proceed according to law. Therefore, the superior court erred in dismissing the petition for mandamus.

Judgment reversed. Sears, P.J., Thompson, J., and Chief Judge Hugh W. Stone and Judge Bensonetta Tipton Lane, concur. Fletcher, C.J., and Benham, J., dissent. Hunstein, J., disqualified. Hines, J., not participating.

S03A1159, TITELMAN et al. v. STEDMAN

FLETCHER, Chief Justice, dissenting.

Because the juvenile court code provides a specific exception to the requirement of a written order denying filing, I respectfully dissent.

On August 4, 2000, following Appellant's divorce from her husband, a trial court awarded custody of the couple's two daughters, aged 6 and 8, to husband. A custodial modification action is apparently pending in Cobb County.[1] On June 10, 2002, Appellant and 29 other individuals presented to the Cobb County Juvenile Court for filing a petition for adjudication of deprivation, alleging that the daughters were being subjected to sexual abuse by their father. Attached to the petition as exhibits were (1) reports from two psychologists who interviewed the older child, (2) the report of a psychologist who reviewed a videotape interview of the children conducted by Cobb County Department of Family and Children's Services and other records, (3) letters from five individuals, including personnel from the agency charged with supervising Appellant's visitation with the children, (4) letters from two individuals who observed behavior on the father's part that they considered suspicious, (5) a letter from an individual who states she observed the father's inappropriate behavior with the younger daughter, (6) the September 2000 report of an out-of-state psychologist who interviewed the children, and (7) an April 2001 letter from jurors who acquitted Appellant of various charges in Cobb County stemming from her taking the children to see the out-of-state psychologist, stating, among other things, the

[1] No. 00-10-8035-33. A custody action pending in Harrison County Chancery Court of Mississippi, First Judicial District, No 00-0200, has been dismissed.

jurors' belief that the state's experts who concluded that no abuse occurred were not credible.

An employee of the Juvenile Court refused to allow the filing, and no written order was issued. Within 30 days, Appellant filed a petition for mandamus in the Court of Appeals seeking to require the Juvenile Court to file the petition. The Clerk of the Court of Appeals refused to accept the petition for filing and returned the papers to Appellant by letter dated June 20, 2002.[2] On July 9, 2002, Appellant filed a writ of mandamus in this Court, which was dismissed on the ground that an original writ of mandamus must be filed in superior court.[3] On August 8, 2002, Appellant filed her petition in the Superior Court of Cobb County seeking a writ of mandamus to require the juvenile court to file the petition. The superior court concluded that the deprivation petition was really a custody challenge and dismissed the mandamus petition.

This Court has previously recognized that the legislature intended for the juvenile courts to have their own "distinctive rules of procedure."[4] In accordance with this legislative intent, we have long held that the Civil Practice Act is not generally applicable to juvenile courts.[5] OCGA § 15-11-37 is a clear example of the unique procedural rules that govern juvenile courts. It requires that a petition alleging delinquency, deprivation, or unruliness shall not be accepted for filing unless the

---

[2] The clerk's letter appears as an exhibit in the record of Titelman v. Cobb County Juvenile Court, S0201606.

[3] Titelman v. Cobb County Juvenile Court, S0201606 (July 18, 2002).

[4] English v. Milby, 233 Ga. 7, 9 (209 SE2d 603) (1974)

[5] Id.

juvenile court "or a person authorized by the court has determined and endorsed upon the petition that the filing of the petition is in the best interest of the public and the child." Because there is a specific requirement of an endorsement before filing, basic rules of statutory construction require the conclusion that nothing is required to refuse filing.[6] The lack of a requirement for a written order denying filing is in keeping with the "basic philosophy that [juvenile] matters shall be handled informally, if at all possible."[7] It is also in keeping with the whole tenor of the Juvenile Court Rules, which provide for all manner of informal dispositions.[8] I would not dispute that the requirement of a written order is desirable, but I believe it is up to the legislature to draft that change in the law.

Because I believe the decision to deny filing was appealable without a written order, the superior court did not err in dismissing the petition for mandamus.[9] Nevertheless, because of the unusual procedural circumstances of this case and in the interest of judicial economy, I would at this time consider the merits of Appellant's contention that the Juvenile Court abused its discretion in denying filing.

I am authorized to state that Justice Benham joins in this dissent.

---

[6] Morton v. Bell, 264 Ga. 832, 832-833 (452 SE2d 103) (1995).

[7] Lane v. Jones, 244 Ga. 17, 19 (257 SE2d 525) (1979) (quoting official comment to prior version of OCGA § 15-11-37).

[8] See Juvenile Court Rules 4.1 ("intake officer may elect to informally adjust, divert, or recommend dismissing case"), 4.2 (screening process may result in "other appropriate action"), 4.3 (intake officer may withhold filing of petition and proceed with informal adjustment).

[9] Barber Fertilizer Co. v. Chason, 265 Ga. 497 (458 SE2d 631) (1995).

APPENDIX I

Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011
July 5, 2007

Ms. Wendy Jane Titelman
P.O. Box 54181
Cincinnati, OH 45254

Re: Wendy Jane Titelman
v. Andrew Charles Titelman
Application No. 07A2

Dear Ms. Titelman:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Thomas, who on July 5, 2007 extended the time to and including September 7, 2007.

This letter has been sent to those designated on the attached notification list.

Sincerely,
William K. Suter, Clerk
by /s/ Erik A. Fossum
Erik A. Fossum
Case Analyst

NOTIFICATION LIST

Ms. Wendy Jane Titelman
P.O. Box 54181
Cincinnati, OH 45254

Clerk
Supreme Court of Georgia
244 Washington Street
Suite 572
Atlanta, GA 30334

APPENDIX J

FILED: June 14, 2006

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

ANDREW CHARLES TITLEMAN,

Plaintiff,

CIVIL ACTION
FILE NO. 98-1-5890-33

vs.

WENDY J. TITLEMAN,

CIVIL ACTION
FILE NO. 00-108035-33

Defendant.

ORDER

Having reviewed briefs and heard oral arguments on Defendant's April 17, 2006 Emergency Motion for the State of Georgia to Pay Costs of Record Preparation for Appeal ("Defendant's Motion"), the Court finds the following:

1.

The assertion contained in Defendant's Motion that this Court has terminated her parental rights is false, as this Court has only modified visitation and custody as between the parties in its Order of January 30, 2006; no party has petitioned the Court to terminate either of the parties' parental rights and no such proceedings have occurred before this Court.

2.

The assertion contained in Defendant's Motion that this Court has held her in criminal contempt is false, as this Court held Defendant in civil contempt in its Order of January 30, 2006; no party has petitioned the Court to hold Defendant in criminal contempt and no such proceedings have occurred before this Court.

3.

Defendant has requested that the Clerk of the Superior Court of Cobb County prepare and send the Record of Proceedings before this Court (the "Record") to the Supreme Court of Georgia

4.

Defendant's Motion does not cite authority that would allow this Court to either waive the fees charged by the Clerk of Court to prepare the record for appeal or to order the State of Georgia to pay such fees on Defendant's behalf. M.L.B. v. S.L.J, 519 U.S. 102, 117 S. Ct. 555 (1996), cited by Defendant, involved an appellant whose parental rights had been terminated, not a case involving modification of custody and visitation. In Nix v. Department of Human Resources, 236 Ga. 794, 795, 225 S.E.2d 306 (1976), which was not cited in Defendant's Motion, the Supreme Court of Georgia held that termination proceedings are unique and therefore not subject to the general rule that civil appellants must bear the costs of their own appeal. Further, in Brand v. Montega Corp., 233 Ga. 35, 35, 209 S.E.2d 583 (1974), also not cited in Defendant's Motion, the Supreme Court of Georgia held that the expense of preparing the entire trial transcript must be borne by the appellant, even where the appellant filed a pauper's affidavit.

5.

Having found that this Court lacks legal authority to either waive the fees charged by the Clerk of Court to prepare the Record for appeal or to order the State of Georgia to pay such fees on Defendant's behalf, this Court makes no finding as to Defendant's indigency.

IT IS THEREFORE HEREBY ORDERED AND ADJUDGED that Defendant's April 17, 2006 Emergency Motion for the State of Georgia to Pay Costs of Record Preparation for Appeal is DENIED, in toto, and IT IS FURTHER HEREBY ORDERED AND ADJUDGED that, within ninety days of this Court's June 2, 2006 holding, Defendant shall pay the Clerk of the Court all costs of preparing and sending the Record to the Supreme Court of Georgia.

SO ORDERED this 12th day of June, 2006.

/s/ James G. Bodiford, Chief Judge,
Superior Court of Cobb County

Presented by:
WARNER, MAYOUE, BATES & NOLEN, P.C.

/s/ Dennis G. Collard
Georgia Bar No. 178101
Attorney for Plaintiff Riverwood 100 Building
Suite 2300
3350 Riverwood Parkway
Atlanta, Georgia 30339
(770) 951-2700

CERTIFICATE OF SERVICE

This is to certify that I have this date place a copy of the attached order in the United States Mail to the following:

Merle J. Leroux
Dennis Collard
3350 Riverwood Parkway
Suite 2300
Atlanta, Ga. 30339

Ms. Wendy J. Titelma, pro se
P.O. Box 54181
Cincinnati, Ohio 45254-0181

This 14th day of June, 2006.

/s/Jan Porter
Administrative Assistant to
Chief Judge James G. Bodiford

Riverwood 100 Building
Suite 2300
3350 Riverwood Parkway
Atlanta, Georgia 30339
(770) 951-2700

APPENDIX K

TERMINATION OF PARENTAL RIGHTS STATUTE
O.C.G.A. § 15-11-94 (2007)

§ 15-11-94. Grounds for termination; other dispositions

(a) In considering the termination of parental rights, the court shall first determine whether there is present clear and convincing evidence of parental misconduct or inability as provided in subsection (b) of this Code section. If there is clear and convincing evidence of such parental misconduct or inability, the court shall then consider whether termination of parental rights is in the best interest of the child, after considering the physical, mental, emotional, and moral condition and needs of the child who is the subject of the proceeding, including the need for a secure and stable home. If the court finds clear and convincing evidence of the circumstance provided in paragraph (5) of subsection (b) of this Code section, the court shall presume that termination of parental rights is in the best interest of the child.

(b) Except as provided in [the statute related to unmarried fathers who have not legitimated children], the court by order may terminate the parental rights of a parent with respect to the parent's child if:

(1) The written consent of the parent, acknowledged before the court, has been given; provided, however, that acknowledgment before the court is not necessary where the parent or parents voluntarily surrender the child for adoption as provided by subsection (e) of Code Section 19-8-4, 19-8-5, 19-8-6, or 19-8-7;

(2) A decree has been entered by a court of competent jurisdiction of this or any other state ordering the parent,

guardian, or other custodian to support the child, and the parent, guardian, or other custodian has wantonly and willfully failed to comply with the order for a period of 12 months or longer;

(3) The parent has abandoned the child or the child was left under circumstances that the identity of the parent is unknown and cannot be ascertained despite diligent searching, and the parent has not come forward to claim the child within three months following the finding of the child;

(4)(A) The court determines parental misconduct or inability by finding that:

(i) The child is a deprived child, as such term is defined in Code Section 15-11-2;

(ii) The lack of proper parental care or control by the parent in question is the cause of the child's status as deprived;

(iii) Such cause of deprivation is likely to continue or will not likely be remedied; and

(iv) The continued deprivation will cause or is likely to cause serious physical, mental, emotional, or moral harm to the child.

(B) In determining whether the child is without proper parental care and control, the court shall consider, without being limited to, the following:

(i) A medically verifiable deficiency of the parent's physical, mental, or emotional health of such duration or nature as to render the parent unable to provide adequately for the physical, mental, emotional, or moral

condition and needs of the child;

(ii) Excessive use of or history of chronic unrehabilitated abuse of intoxicating liquors or narcotic or dangerous drugs or controlled substances with the effect of rendering the parent incapable of providing adequately for the physical, mental, emotional, or moral condition and needs of the child;

(iii) Conviction of the parent of a felony and imprisonment therefore which has a demonstrable negative effect on the quality of the parent-child relationship;

(iv) Egregious conduct or evidence of past egregious conduct of the parent toward the child or toward another child of a physically, emotionally, or sexually cruel or abusive nature;

(v) Physical, mental, or emotional neglect of the child or evidence of past physical, mental, or emotional neglect of the child or of another child by the parent; and

(vi) Injury or death of a sibling under circumstances which constitute substantial evidence that such injury or death resulted from parental neglect or abuse.

(C) In addition to the considerations in subparagraph (B) of this paragraph, where the child is not in the custody of the parent who is the subject of the proceedings, in determining whether the child is without proper parental care and control, the court shall consider, without being limited to, whether the parent without justifiable cause has failed significantly for a period of one year or longer prior to the filing of the petition for termination of parental rights:

(i) To develop and maintain a parental bond with the child in a meaningful, supportive manner;

(ii) To provide for the care and support of the child as required by law or judicial decree; and

(iii) To comply with a court ordered plan designed to reunite the child with the parent or parents; or

(5) The parent has been convicted of the murder of the child's other parent.

(c) If the court does not make an order of termination of parental rights, it may grant an order under Code Section 15-11-55 if the court finds from clear and convincing evidence that the child is a deprived child.

APPENDIX L

PARENTAL POWER STATUTE
O.C.G.A. § 19-7-1 (2007)

§ 19-7-1. In whom parental power lies; how such power lost; recovery for homicide of child

(a) Until a child reaches the age of 18 or becomes emancipated, the child shall remain under the control of his or her parents, who are entitled to the child's services and the proceeds of the child's labor. In the event that a court has awarded custody of the child to one parent, only the parent who has custody of the child is entitled to the child's services and the proceeds of the child's labor.

(b) Parental power shall be lost by:

(1) Voluntary contract releasing the right to a third person;

(2) Consent to the adoption of the child by a third person;

(3) Failure to provide necessaries for the child or abandonment of the child;

(4) Consent to the child's receiving the proceeds of his own labor, which consent shall be revocable at any time;

(5) Consent to the marriage of the child, who thus assumes inconsistent responsibilities; or

(6) Cruel treatment of the child.

* * *

UNFITNESS OF PARENT-annotations to parental power statute

DETERMINATION OF UNFITNESS must be based on parent's present condition. Bozeman v. Williams, 248 Ga. 606, 285 S.E.2d 9 (1981).

Evidence adduced to prove parental unfitness must pertain to present rather than past misconduct. In re M.M.A., 166 Ga. App. 620, 305 S.E.2d 139 (1983).

METHOD OF DEPRIVING NATURAL PARENT OF CHILD CUSTODY other than those enumerated in former Code 1933, § 74-108 (see O.C.G.A. § 19-7-1) was upon clear and satisfactory showing that parent was an unfit person to have such custody. Patman v. Patman, 231 Ga. 657, 203 S.E.2d 486 (1974).

LEGAL AND PARENTAL RIGHT TO CUSTODY IS SUBJECT TO CHALLENGE on ground of unfitness for trust. Peck v. Shierling, 222 Ga. 60, 148 S.E.2d 491 (1966), later appeal, 223 Ga. 1, 152 S.E.2d 868 (1967).

FINDING OF UNFITNESS MUST BE SUPPORTED by clear and convincing evidence. Mathis v. Nicholson, 244 Ga. 106, 259 S.E.2d 55 (1979); Bozeman v. Williams, 248 Ga. 606, 285 S.E.2d 9 (1981); In re M.M.A., 166 Ga. App. 620, 305 S.E.2d 139 (1983).

CHALLENGE TO FITNESS MUST BE BY CLEAR AND SATISFACTORY PROOFS, and for grave and substantial cause. Perkins v. Courson, 219 Ga. 611, 135 S.E.2d 388 (1964); Peck v. Shierling, 222 Ga. 60, 148 S.E.2d 491 (1966), later appeal, 223 Ga. 1, 152 S.E.2d 868 (1967).

PROOF REQUIRED TO SUSTAIN CHALLENGE TO

PARENT'S FITNESS.—Parent's prima facie right of custody of infant, when resisted upon ground of unfitness or other cause, must be established by clear and satisfactory proof. Hill v. Rivers, 200 Ga. 354, 37 S.E.2d 386 (1946).

Right to custody may be lost on ground of unfitness only if it is shown by clear and satisfactory proof that circumstances of case justify court in acting for best interest and welfare of child. Bowman v. Bowman, 234 Ga. 348, 216 S.E.2d 103 (1975).

UNFITNESS JUSTIFIES COURT IN ACTING FOR CHILD'S BEST INTEREST.—A parent may lose right to custody if found to be unfit. Unfitness of parent should be shown by clear and convincing evidence that circumstances of case justify court in acting for best interest and welfare of child. White v. Bryan, 236 Ga. 349, 223 S.E.2d 710 (1976); Childs v. Childs, 237 Ga. 177, 227 S.E.2d 49 (1976), later appeal, 239 Ga. 304, 236 S.E.2d 646 (1977).

THAT CHILD MIGHT HAVE BETTER FINANCIAL, EDUCATIONAL OR MORAL ADVANTAGES elsewhere is insufficient. Peck v. Shierling, 222 Ga. 60, 148 S.E.2d 491 (1966), later appeal, 223 Ga. 1, 152 S.E.2d 868 (1967).

PARENTAL FITNESS.—Fitness was not necessarily synonymous with absence of conduct penalized by former Code 1933, §§ 74-108-74-110 (see O.C.G.A. §§ 19-7-1 and 19-7-4). Fact that parent had not forfeited or relinquished parental right by any of the modes of these sections did not establish parent as fit. Perkins v. Courson, 219 Ga. 611, 135 S.E.2d 388 (1964).

WHERE APPELLATE COURT WILL NOT UPSET FINDING THAT PARENT IS UNFIT.—Where controlling issue was whether or not petitioners lost right of parental

power and control, evidence was in sharp conflict, and trial judge resolved that conflict against parent petitioners and awarded custody of child to respondent, appellate court would not say that judge of court below abused the judge's discretion. Byers v. Loftis, 208 Ga. 398, 67 S.E.2d 118 (1951). Where evidence amply authorizes, although it does not demand, finding that parent is not a fit and proper person to have custody of children and that it is in best interests and welfare of children that they be awarded to other person, appellate court will not substitute its judgment for that of trial judge, absent abuse of legal discretion. Adams v. Kirkland, 218 Ga. 512, 128 S.E.2d 730 (1962).

When the trial court makes a finding of parental unfitness, the appellate courts will ordinarily not interfere with that finding, absent abuse of discretion. In re M.M.A., 166 Ga. App. 620, 305 S.E.2d 139 (1983).

APPENDIX M

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

ANDREW CHARLES TITLEMAN,
Plaintiff, CIVIL ACTION

V. CASE NO. 00-108035-33

WENDY J. TITLEMAN,
Defendant. NONJURY
HEARING

TRANSCRIPT OF PROCEEDINGS BEFORE THE HONORABLE JAMES G. BODIFORD, JUDGE, COBB JUDICIAL CIRCUIT, ON DECEMBER 19, 2005, IN MARIETTA, GEORGIA

* * *

[Pg. 7]

MS. WENDY TITELMAN: ... Especially in the contempt motion I have every right to counsel, in the entire case. I'm not an attorney. And to bumble or fumble through the proceedings is probably a very poor decision for both myself and the Court to have to endure the stumbling that I'm going to be doing all through the day and also then not to have all the rights that I should be afforded in the case because I don't know the law.

* * *

MS. WENDY TITELMAN: There are also other motions, such as the applicability of res judicata and the motion to dismiss the September 20th order that was filed quite sometime ago as well . the motion for an independent mental evaluation of the children. All of these things [Pg. 8] are extremely important to this case

and especially in any ruling of any matters that are to be heard today.

I want to object on the record to those not being set for hearing prior to this hearing or at least at this hearing. These matters have got to be heard.

* * *

[Pg. 76]

MS. WENDY TITELMAN: ... For the record, let me be absolutely clear in saying that I request custodial rights and visitation with Alex and Jenny to begin immediately. I demand that my rights as a parent be upheld and protected. My civil rights have been violated for many years.

Second, while I understand that the State of Georgia [Pg. 77] has undertaken several investigations and while I concede that those investigations purport to be complete, I respectfully disagree and I still stand here today, that there are valid allegations of child abuse, allegations which were wrongly discredited through a faulty investigation and in an effective child – ineffective child welfare system.

Accordingly, I have done everything within my legal rights to expose what I truly believe and what the most highly respected child abuse experts in this country and child advocates also believe, that the outcries made by Alex and Jenny to me and to others were never properly investigated.

Specifically, Alex and Jenny's guardian ad litem and the court-appointed custody evaluator relied on a controversial theory, the so-called syndrome, parental alienation syndrome or PAS. Their reliance on PAS is evident from the custody evaluations in the court's file,

and I would ask the Court to now take judicial notice of these reports.

The first – I think it was February 18, 2000 emergency hearing, which speaks only to the parental alienation syndrome and how valid it is in this; also, to the report by Dr. King which she submitted to the Court I think just maybe two days or one day prior to that and [Pg. 78] submitted to me one hour prior to that emergency hearing, which did not allow me any due process.

In 2000, the American Bar Association, the American Psychological Association and related professional organizations were critical of PAS and urged caution to legal professionals when discussing or urging PAS as a defense to custody cases.

To date the DSM-IV does not include PAS as a valid or recognized diagnosis or condition.

It was not until 2004, however, that the National Council on Family and Juvenile Court Judges expressed and rejected PAS and declared it inadmissible.

[Pg. 79] * * *

Hal Carter in court stated that, when you build a house on faulty foundation, the house will fall. And that's exactly what this case is. It was built on faulty foundation, and that is one of the reasons it's so important for that res judicata not be considered in this case, that we go back and we look at the whole picture of abuse because it was built on faulty information.

[Pg. 82] * * *

I'm not alone in my belief that Alex and Jenny have not been adequately protected.

As the Court knows, several qualified and distinguished professionals share this belief, including the recent past president of the American Psychiatric Association. Numerous lay persons also share this belief, including the jury in the criminal trial of the State of Georgia versus Wendy Titelman.

Fourth, and finally, Alex and Jenny must have an independent mental evaluation to determine their emotional state and to ensure their well-being.

There has been no competent evidence that I am an unfit mother ever or that a total lack of communication or contact between my girls and me is in their best interests. In fact, just the opposite. The research shows that this is extremely damaging to children.

Without regard to whether the child abuse allegations are ever believed or resolved, I have rights as a parent, and I demand that this Court recognize and uphold those rights.

* * *

[Pg. 395]

MS. WENDY TITELMAN: I'd like to have the opportunity to make my closing statement.

THE COURT: Who are you making it for? Are you making it for the media? Are you making it for your friends? Are you making it so you can get some more money? Who are you making it for?

You're not making it to me, obviously, because you don't think I'm listening. So why are we wasting our time? That's a fair question.

Now, how about giving me an answer?

MS. WENDY TITELMAN: I will be happy to.

Six years ago this should have been handled very privately and very competently. It wasn't. I tried very, very hard and I followed my attorney's instructions to be [Pg. 396] patient. Wait.

You have to keep sending them back to their father and they'd cry and they'd be terrified and people reported that and the reports continued. And there still was no protection, absolutely none. And things became very desperate for me.

How do you protect your children that you adore, you love, you cared for all their life? And then, all of a sudden you see their lives absolutely being destroyed and ruined and thrown apart and a court who doesn't want to believe – believe the children.

And then you find out that what PAS is and that – how it's been used in this case. And then you understand the basis for how this has all happened. And then you have to find some other way to try to correct the problem.

So I reached out to people. I had to reach out to the media. This shouldn't have had to go to the media, but I had to reach out to others.

And so no. It's not a media campaign but it is a campaign to try to get help, to try to hear my children's voices.

I have gone to these doctors and said, am I wrong?

You say, how can you convince me that I'm wrong? Well, every single person, 100 percent of them that I have [Pg. 397] gone to have said, you're not wrong. There has never been so much evidence that I have seen in such a case.

THE COURT: The only person today – you have these – you have these army of folks that didn't bother to come today, including Matherne and – but the only person today out of all the different witnesses that came and said that they basically believed you was Dr. Silberg who, with all due respect, although I thought she was a good witness, is a hired gun. So we have had one hired gun to come in.

And Dr. Elizabeth King, George Washington, Lorita Whitaker, Bobbi Nelson and Frances Evans certainly didn't say any of that, did they?

So please stop telling me all these, all these thousands of individuals out there have found that you are correct when you haven't even brought – you brought one in.

MS. WENDY TITELMAN: There's not time and that's why I objected to a one-day hearing.

THE COURT: Well, I think the bottom line is you're finished. This is basically to get some more contributions for yourself and you're finished because I'm not going to allow the Court to be called biased one more time. Have a seat.

* * *

[Pg. 398] Mrs. Titelman has – the last five years has a scorched-earth policy. She and her group of kamikaze custody folks believe that Mr. Titelman is wrong, the prior judge was wrong, everybody that doesn't believe what she believes is wrong. And that's fine. Some people, they

decide that but they don't have a scorched-earth policy of doing everything that they possibly can to roll over the other side.

And she talks about Mr. Titelman and Mr. Titelman being a bully.

Ms. Titelman and her group of kamikazes are the biggest bullies this Court has ever seen in over 20 years. That's how they want to win.

And I think they're getting very upset because their bullying tactics seem to be going south on them.

And it's hard to take Mrs. Titelman seriously when she tells us about her children being molested and, yet, won't even appeal. She wants to complain about her attorneys. But if you listen very carefully, she wants to complain about everybody in the court system.

[Pg. 399] The only person that she – that she will agree with are those that agree with her. It's truly – you have always heard: It's my way or no way. That's Ms. Titelman.

And that's why we finally stopped it tonight when she called this Court biased for the very last time, the very last time ever in her lifetime that she will do that because I don't have to sit up here as a neutral independent arm's length person and take it.

I don't have to be – I don't have to fear you and your kamikaze parade. I don't have to fear it because I'm absolutely protected. I am protected in every possible way.

And the reason the kamikazes won't come after this Court is because they know there are more severe

implications than just financial ones, including loss of a lawyer's license, and that's what will stop most people from taking the final kamikaze trip.

For Ms. Titelman, there's nothing that James Bodiford or anybody else in the Georgia court system can do. Ms. Titelman will absolutely do what she wants to do. There is no court order that's ever going to constrain her. There's no court order that she's ever going to comply with if she thinks it's wrong. That's why the safety of the children must come first.

[Pg. 400] She will take those children in a New York minute if she gets the opportunity to do so. That's why I'm not going to allow it.

I was – as I had indicated before, Dr. Silberg, which was the only person, the only person whatsoever out of these band of folks – seems like Ms. Titelman could have brought at least more than one in. But Dr. Silberg was the only one that basically said, hey. I have some concerns with some of these professionals that were hired by both Mr. and Mrs. Titelman. I have got some concerns. And she said, I thought Dr. Matherne did a better job. I heard what she said.

Of course, she can't tell us, just like this judge can't say whether Andy Titelman has ever molested his children. I will never know that to an absolute, a mathematical certainty, and neither will anybody else.

The only person that really knows what happened at this point that's absolutely convinced in her own mind is Wendy Titelman and that scares the hell out of me because Wendy Titelman absolutely would believe and could pass a lie detector test. If anybody said, has Andy Titelman

molested those girls? And she would say, absolutely. Correct.

And you would think, after you see a lie detector test, you would have thought that she would have witnessed [Pg. 401] it herself when, in fact, she has convinced herself it happened. And nobody, including as I have indicated earlier, George Bush or John Kerry or both, could convince her otherwise.

That's why Dr. Silberg's: Let's get everybody together will never work with Mrs. Titelman because, simply, she's not going to do what this Court says. She has absolutely disdain for this Court.

What's the saddest thing is, if you hear it, she hates Andy Titelman more than you love your children. That's as sick as it gets. That's as – that's as sick as it gets. And you just can't be forgiven for that, Mrs. Titelman.

We forgive a lot of people, but you can't be forgiven for hating somebody more than you love your children. And there's no way the judge can deal with that. So safety comes first for the children.

So here's what I'm going to do. I'm going to issue a temporary order in the visitation and custody.

Temporary legal and physical sole custody will remain with the father, will remain with Andrew Charles Titelman based on our record of proceedings that we had today.

Now, Mr. Titelman, it's not going to get any better for you. As long as the band of kamikazes are out there, they will continue to come after you.

[Pg. 402] But as long as they have nothing to lose whatsoever, especially financially, they will continue to come after you, and I'm not going to be able to protect you. I might even feel sorry for you in that but I'm not really interested in protecting you or Ms. Titelman. I am really interested in protecting the children.

I am going to allow the record to stay open because, whenever we have an allegation – in this case we have got an allegation that – although I don't think it was articulated very well, we do have this allegation hanging out there, this cloud of sexual abuse that happened after August 4th and it's there and I can't tell you absolutely that it didn't happen.

The problem with that kind of allegation is you throw it on the wall and it never ever, ever goes away.

The fact that Mr. Titelman has been charged with that, some people will always believe that he did it. And that's why – that's why the second worst thing that could happen to anybody – one, a child molester ought to be thrown in jail for the rest of their life.

But probably the second worst thing that could ever be done is one of the parents be charged falsely with child molestation.

And, by the way, folks, don't think people don't know that there are evil people in this world and they say, to [Pg. 403] get an advantage, I'll charge – I'll charge molestation. Oh, that's a perfect way to do it and especially if you're operating with a band of kamikazes. They know how to do it quicker and better than anybody else. They just get right to it. No. Let's not bring down a two-story building. Let's go after the World Cong- -- let's go after the World Trade Center.

So here's what I'm going to do because I do worry that – I worry that – that it certainly would help to have some professional take a look at it again.

But I'm thinking, who can I get as a professional? The only way that I know that I can get a professional is to protect them.

So here's what's going to happen. I'm going to leave the record open for 60 days. I will consider and probably appoint a guardian ad litem in this particular case and they can look at anything from August 4th all the way right up to today. So they can look at anything in five years.

They can visit with the children. They can talk to both sides.

By the way, that's two more things that Dr. Silberg did, although it's great to be an academic and to take a look at the record. It's certainly good to have somebody on the stand as happened today and look in their eyes and [Pg. 404]
cross-examine them. It's a great – it's a great truth serum.

But this Court will appoint a guardian ad litem to determine if it's appropriate for Mr. Titelman to have visitation because I'm not an expert in that and everybody knows that and I know it most of all.

But because we have got the scorched-earth policy, two things are going to have to happen. One, there's going to have to be a $500,000 bond for the benefit of the guardian ad litem. It's going to have to be filed with the court. This Court, James G. Bodiford, is going to have to approve the bond. I'm not going to delegate that to

anybody other than Ms. Dolin and myself. I'm going to talk to the insurance company, and that bond will be there to pay any attorney fees for any guardian ad litem that has to defend themselves against the kamikazes.

It will also pay any litigation expenses that they may incur, and it will also pay any judgment that was rendered against Mrs. Titelman or any of her attorneys.

So we're going to have a $500,000 bond and that will protect the guardian ad litem. That will surround the guardian ad litem so they can do their job, and it's almost like the immunity that surrounds the judge. So they can say, hey, if somebody – if they want to sue me, then I have – I have got an attorney that I can basically [Pg. 405] hire myself. They're going to pay all the litigation expenses.

And, by the way, when I find – when I get an abusive judgment against them, then that will be paid from the $500,000.

Additionally, Ms. Titelman, only Ms. Titelman will pay $10,000 in cash into the registry. Of course, that could be a cashier's check, and that will be the attorney fees for the guardian ad litem.

Now, where am I going to get? I'm hoping Ms. Titelman does that because I think a lot of this is just simply about getting money; let's see how much more money we can get and generate and this probably, hearing today, will generate a lot more money and let's just see where the money should flow. Should it flow to travel expenses or should it flow to something else or should it flow to a guardian ad litem?

And if she deposits the $10,000 and she has a bond that will be approved by me – and, basically, if we have a

bond from an insurance company that says, Judge, we understand that you're talking about – by the way, it includes that but it may not be – but it may not be limited, just those damages. I want to protect somebody from getting sued like all these folks got sued down in Federal Court. I want something to be there where they [Pg. 406] don't have to worry about they're going to have to give up their house to defend themselves.

But I'm not going to – if we have got an insurance company that said, hey, we trust Ms. Titelman and we're going to put up the $500,000 and we're okay with it, then it may actually help some ethical and professional behavior. And then I'm good to go.

Where am I going to et my guardian ad litem? I don't know.

But here's what I'm going to do. I'm simply going to convene the hearing. And it will be one of the most important hearings I have ever had in this case and I'm going to hear from both sides and I'm going to say, where do I get my guardian ad litem from? Where do I get them from?

I would say we couldn't possibly get one from Cobb County because anybody that's ever heard the Titelman case would run. If I paid them a hundred thousand dollars they would run.

But I will ask Mr. Mayoue and Ms. Titelman or hopefully her attorney and we will find out how I should go about getting a guardian ad litem, and let's let the guardian ad litem then talk to Ms. Titelman, Mr. Titelman, the children, Dr. Mayhurn or Matherne, Dr. Whoever, Dr. King, anybody the guardian ad litem wants to talk to.

[Pg. 407] And if the doctor needs to fly to – or if the guardian ad litem needs to fly to Seattle, if it needs to fly to Miami, anything they can do to help.

And then if the guardian ad litem comes back and says, Judge, I think you have got it wrong. I think you have got it wrong. Although there was a scorched-earth policy, I think it would be best for the children to visit with Mom and I have got some appropriate safeguards, then I'm for it because this is a – this is a – no visitation is an extreme.

I can't – I'm trying to think of anytime I had ever said a person can't visit with their children. And the only time I can ever remember doing it and we have done on a pretty routine basis is if just one party comes in and I believe that one party and they say, the other party is a drug user or the other party is a severe alcoholic and that other party doesn't come in. And I will say, all right. No visitation until a further hearing, till I can have both people.

I can't remember one time, Ms. Titelman, when somebody has come in and said, I want visitation, that I have said no. So that shows you – that shows you what I feel about this case.

I feel like Ms. Titelman has – and I want this in the order. I feel like Ms. Titelman on many ways has very [Pg. 408] little credibility. I do not trust Ms. Titelman. I fear for the safety of the children. I want all those findings.

Now on the other hand, Ms. Titelman did as well as any pro se litigant could possibly do, especially when she was emotionally involved. So she actually did a pretty good job here today. So it's obvious she's intelligent. It's obvious she's intelligent. But I absolutely believe she's got

some very poor advice, especially when she lectures the Court and talks about illegal *ex parte* hearing and illegal orders when we know, if it was that illegal – it must not be that illegal in that it's held up for five years without a challenge.

And we must know that Judge Woods – Judge Wood, Bo Wood's order was – must have been a pretty fine order because nobody appealed it. And we just have to use our common sense. We don't just use this emotion.

And the one thing we heard over and over today is every expert in America agrees with Wendy but they decided to stay home today. Isn't that sad that all those experts would allow this child abuse to go on and wouldn't even bother to come down to the Cobb County Superior Court where they could actually make a difference. But I suspect they will all be commenting now somewhere and tell us just how wrong we are, tell us how wrong and how [Pg. 409] backward this Court is. But they couldn't even appear and especially the miracle witness, Dr. Matherne.

I would have loved to have seen him because I would have loved to judge his credibility and I would have loved for him to be cross-examined because that would have given me perhaps some more information. And if he was as I had indicated before – if he was – if he was a pretty good witness like Dr. Silberg, although I certainly thought she was off base when she talked about, yes, we ought to reunify. That was way out in left field.

But if he was as good – if he was a good a witness as Dr. Silberg, that would have helped you today. But it's Ms. Titelman's obligation to come forward, especially after the scorched-earth proceedings in this case.

So the order will be a temporary order if we have not heard anything. I might have said 60 days. There's no reason to not make it 90 days. Let's make it 90 days. If we have not heard that, that's a final order of this Court.

Now, with the exception of the medical bills and counseling bills, the contempt money is a final order. And when Mr. Mayoue sends it in and I sign it, it's a final order ready to be appealed.

Let me just – let me just go over this to talk about – so all the different contempts, application for [Pg. 410] contempt, motion to dismiss contempt citation and motion for contempt regarding property, with the exception of those two small items, are all ready when it's signed to be appealed.

Application for sanctions will be sent to us in the mail and we will decide it there.

Motion to modify, modification of visitation and transfer motion, all of those are temporary but will be final unless a $500,000 bond is set in place that the judge approves and a $10,000 retainer is set in place.

Now, some people might say, well, Judge Bodiford, that is a large amount of money. It certainly is. It's a large amount of money. And unfortunately – unfortunately, it's going to jump right out.

Unfortunately, it has to be set that high in order to keep the kamikazes – the kamikazes up in the sky. That's what it's got to do and that's a sad day that the Court has to do that.

But, again, the protection of the children is the primary goal here and I'm going to make sure to protect them.

APPENDIX N

IN THE SUPERIOR COUFT OF COBB COUNTY
STATE OF GEORGIA

ANDREW C. TITLEMAN,
PLAINTIFF,

VS. CASE NO. 98-5890-33

WENDY TITLEMAN,
DEFENDANT.

- - -

PROCEEDINGS HELD BEFORE THE HONORABLE
JAMES G. BODIFORD, JUDGE,
ON THE 20TH DAY OF SEPTEMBER, 2000

* * *

[Pg. 2]
THE COURT: The court has received two faxes on the Titelman vs. Titelman case; one appears to be from Wendy Titelman – a handwritten letter.

Basically she says she was released from jail in Harrison County, Mississippi, "As you are aware for charges that I have not committed" and I don't know why she uses that phrase, so that is not for the truth of the matter asserted but that is what she says.

"I learned last night that a hearing is being held at 9:00 a.m. regarding Alexandra and Jennifer today. I do not have an attorney of record to represent me for this hearing and therefore am acting as my own counsel until I can confer with an attorney who practices in Georgia. As it is

impossible for me to be present for this hearing, I am requesting a continuance of this hearing" and it appears that it was faxed - - If the marking is correct, it was faxed about 7:01 a.m. today and it is signed "Mrs. Titelman".

Then I have a letter that was apparently faxed yesterday about 4:15 from Laurie Caldwell, Attorney At Law, in Gulfport, Mississippi, and she basically said - - without reading the entire letter, it says she has been representing Mrs. Titelman in Harrison County, Mississippi, and she said that Mrs. Titelman [Pg. 3] was released about 4 p.m. yesterday, September 19.

She is asking me to postpone the hearing in order to afford Mrs. Titelman some time to return to Georgia to retain counsel and appear for the hearing, so I have those two faxes.

I will address the motion for continuance. Mrs. Woods, you have asked for the hearing and I will ask you to respond to the motion for continuance.

MS. WOODS: I believe that Mr. Titelman has arranged a hearing scheduled for October 2 to deal with the contempt issues and the modification as well. The reason I would object to a continuance is on this basis; we have some matters that I considered to be of an emergency nature to the children and the well-being of the children and for that purpose, I cannot agree to a continuance.

* * *

[Pg. 4]
MS. GRAY: ...I am not sure we have got proper service on Mrs. Titelman for our application for contempt and motion to modify [Pg. 5] visitation. I am hoping to get service but I have no idea where she is right now.

THE COURT: According to this, she is at 18 East Beach Boulevard, Long Beach, Mississippi 39560. I will be glad to give yo a copy of the faxes that I have and they are public record. . . .

MS GRAY: I hope to get service on her and we would like to be heard on October 2 as well on the issue of attorney fees. A lot has been incurred in the last two weeks on this issue and we are not prepared to argue that today but we'll be prepared on October 2.

THE COURT: As for the emergency nature of this hearing today, I do find that it is an emergency and the children are in the custody of the state and the guardian is asking me today - - I believe she will be asking me to release them to the father who had been given custody in both the temporary hearing and a final hearing by two different Judges, so if these letters can be construed as a motion for continuance, I will deny same.

* * *

[Pg. 7]
MS WOODS: . . . W]hile no one can say one hundred percent that the children have [Pg. 8] not been sexually abused, I don't think anybody is qualified to say that they have not just because of the nature of the allegations that have been made but Dr. King and I believe that it would be in the best interests of the children to return them to their father.

* * *

[Pg. 9] . . . I would like Mrs. Titelman to be ordered along with any other relative of Mrs. Titelman to stay away from the children at least three thousand yards be it at the school or Mr. Titelman's home of the childrens' activities.

* * *

[Pg. 10]
BY MS. WOODS:

Q. Would you state your name.

A. George Washington.

Q. How are you employed?

A. Supervisor of Child Protective Services of Cobb County Department of Family and Children Services.

* * *

[Pg. 11]

Q. And have you had an opportunity to review all of the reports and documentation that has been provded to you pursuant to the order of the Mississippi Court?

A. Yes.

Q. And do you have a recommendation to the court today as to placement of the children following today's hearing?

A. Yes, at this point we see no information that would overturn the judge's earlier ruling that the custody should be with the father.

* * *

[Pg. 12]

THE COURT: The Court will issue the following order. Mrs. Woods will prepare the order.

Based upon the recommendation of Dr. King, who was the custody evaluator chosen by both parties, and the guardian ad litem, Diane Woods, and the Department of DFACS executive Mr. Washington, I find that the best interests of the children are to return them to the father pursuant to the temporary order and pursuant to the final order, I might add.

There will be no visitation at all by the mother until further hearing in this matter. The hearing may be held as early as October 2 so she would have an opportunity to come in and tell me why she believed that we should either go to supervised visitation or unsupervised visitation. The only thing, basically that I have changed at this point from the temporary emergency order which I issued earlier this year where I gave her supervised visitation is at this interim point, I am not giving her any visitation. That [Pg. 13] includes phone visitation. It's unfortunate when the court is forced to say that a mother cannot even visit with her children in person or by phone but Mrs. Titelman has shown us what she is going to do. She will steal the children if given that opportunity.

* * *

[Pg. 14]

I will add the further provision that Mrs. Titelman or her relatives cannot go within three thousand yards, as requested, because of the alleged taking on Labor Day weekend - -

APPENDIX O

IN THE SUPERIOR COUFT OF COBB COUNTY
STATE OF GEORGIA

ANDREW C. TITLEMAN,
PLAINTIFF,

VS. CASE NO. 98-5890-33

WENDY TITLEMAN,
DEFENDANT.

- - -

PROCEEDINGS HELD BEFORE THE HONORABLE
JAMES G. BODIFORD, JUDGE,
ON THE 4TH DAY OF OCTOBER, 2000

* * *

[Pg. 47]
THE COURT: Thank you. Here's the way - - here is my assessment ot it: My practical commonsense assessment of it is that I do have authority and I ought to be able to deal with it. But I am - - you know, when I was chief magistrate, there was a portion of the Code that said we could do substantial justice. Substantial justice may be exactly what Mr. Mayoue is arguing here today.

We may be just delaying the inevitable. But Ms. Portnoy has given me enough information here where I am not sure, although - - you know, the last thing we want to do is rule from the cuff. And so I'm going to give her a limited amount of time, basically, to give me this law.

It does appear to me that if I am not convinced by Ms. Portnoy's argument, at least the several different

arguments regarding venue in Mississippi and the application for appeal, it appears to me that even this might raise the frustration level higher, that if I hear her correctly, Judge, I want to be heard on the willfulness. I want to actually present evidence on the willfulness. And I think she would have a right - - my preliminary assessment is she'd have a [Pg. 48] right to do that.

So here is what I'm going to do: I am going to give you both a week, basically, to brief this for me. And I will do the best I can. That'll be - - today is the 4th. That's the 11th. I'll do the best I can to review it and basically issue a very cursory order, because I'm losing my law clerk. My law clerk is going - - we will be getting a new law clerk, so I will address each and every one of these points. In fact, you might want to submit a proposed order with findings of fact and conclusions of law.

And then we'll get this, assuming that I'm right - - my own Bodiford law just says right now, well, she can't do what she did and there ought to be some redress and it seems like it ought to be in Georgia and it seems like I ought to be able to hear it, but Ms. Portnoy has said, Judge, maybe you are not on the practical commonsense foundation that you think you are on.

Assuming that, I then further assume that she would have a right then to bring up witnesses and say, Judge, it's not willful. Lastly - - and you may not even want to - - you may not even want to address this point, but Mr. Mayoue, when he said, Judge, I want two things, that I want $56,000 and whatever and [Pg. 49] then two, I want whatever justice you can give me. I'm not sure there's a U.S. Supreme Court decision regarding contempt and criminal punishment. And I'm not so sure that – say Mr. Mayoue was correct and I said all right, Ms. Titelman, 20 days in the common jail of Cobb County. I'm not so sure how that

impacts, if it does, any criminal prosecution of the case. So I think rather to be safe than sorry - - I have nothing to do with the criminal prosecution - - that I may, even if I found that Ms. Titelman's conduct was egregious - - let's say I agreed with Mr. Mayoue, I may decide, well, I'm not going to address that because I may preempt some criminal prosecution.

Now that doesn't make a lot of sense, that you preempt a criminal prosecution, but I think there was a case in about 1993 in the U.S. Supreme Court that I had reviewed at one time that leads me to believe that that might be a gray area.

If that was important to counsel, Mr. Mahoue, I would like for you to address that, because if I was sure that I could punish in some way, I may very well punish.

* * *

[Pg. 51]

MS. PORTNOY: That makes sense to me. What that means is all these orders related to the [Pg. 52] contempts are nullities, when we dismiss our application for appeal, which we'll do today, then we're back to final judgment and decree.

MR. MAYOUE: Let's be clear about one thing, your Honor - - and I'd like Diane to address this, if she is willing to: There is an order dated September 20th that would not be affected by contempt. It's not an order of contempt. It is an order restricting contact with the children. That would no be annulled.

THE COURT: Well, let me - - can I give you some direction o this?

MR. MAYOUE: Yes, you may.

THE COURT: I'm not prejudging anything, but it seems to me that if you - - here is the cleanest and most efficient way to do it. We don't always like to be efficient, and sometimes being efficient just means that we don't get any justice: Mr. Mayoue dismisses his contempt action today. Ms. Portnoy dismisses the application for appeal. They have two agreements between themselves, as officers of the court, one, that that house will not close or the transaction that is pending will not take place until a further hearing in this matter, and, two, Ms. Portnoy will accept service for Ms. Titelman.

* * *

[Pg. 53]

THE COURT: I think maybe I have an answer.

MS. WOODS: Good. I am getting wound up.

THE COURT: Ms. Portnoy, let's say there's an agreement, that there's an agreement. Don't anybody get upset until you hear me. Let's say there is an agreement that the September 20th order is not a nullity or void or no longer in effect. That might be words that are more palatable for everybody. Do [Pg. 54] you further have an agreement that Ms. Titelman, until you can get a hearing - - and you can get a hearing in this court in a short period of time - - until - - that Ms. Titelman will not try to exercise any visitation until further hearing in this matter?

MS. PORTNOY: The problem is - - and I understand the children are traumatized. So many things have occurred to them that it can't be good that they have no contact with their mother, no telephone contact.

I have a problem with the September 20th order. Indeed, that's the one that's most disturbing with the due-process issues. . . .

* * *

[Pg. 55]

THE COURT: All right. Let me throw out two more things, and then I am going to go around the room and try to resolve it because I have to get to some other cases here. How about a two-week - - let me throw this out: If we don't have any cases pending, then right now, I'm going to have to hear [Pg. 56] whether the September 20th order is void or not. And we're going to have to have a hearing on that procedure. And no one seems to be happy about that. Okay?

So it's seems to me there could be some period of time, such as a two-week moratorium, on visitation between counsel. You don't need the judge to say that. Learned counsel simply says, hey we have got a two-week moratorium, and then we're all going to file whatever we need to file.

* * *

[Pg. 61]

THE COURT: Let us do this: As basically a gentleman and lady's agreement, a member of the bar, which is certainly as strong as I think any court [Pg. 62] order, we have three agreements. For the next two weeks, there will be no visitation. Ms. Woods will confer with both Ms. Portnoy and Mr. Mayoue, and if Ms. Woods says there will be no contact whatsoever, Ms. Portnoy - - her client will live with that at least for two weeks; two, we talked about the appeal; three, we talked about the dismissal of any pending actions by Mr. Mayoue's client; and lastly, there will be no transactional closing.

APPENDIX P

Bryan Wilson, Jury Foreperson
State of Georgia vs. Wendy Titlemen

Dear Honorable Judge Bodiford and Mr. Pat Head:

My name is Bryan Wilson and I recently served as a juror on a trial (Apr 23-27, 2001) in the Cobb County Superior Court of Georgia. Several members of the jury have requested that I write a letter summarizing our thoughts and concerns pertaining to the case we hear' State of Georgia v. Wendy Titlemen. To understand why this case even made it to t trial was a question each of had to ask while we were deliberating on Friday. We were perplexed as to why our State would pursue such a case so diligently when there were obvious errors in the indictment and credible reports indicating sexual and emotional abuse to two small children and the prosecution of the mother who sought to protect them from harm's way.

We, the jury felt that the "State of Georgia" did in fact, neglect to protect these children and furthermore, did not have the children's best interests at heart. It appeared they wished to cover up blatant miss-steps by an agency (DFACS) that appears to have made several errors in judgment. I would like to take an opportunity to summarize these areas of concern. I sincerely hope that action can be taken to correct these situations in the future. Not only will this save the State of Georgia the expense of prosecuting such flimsy cases, but will also serve to better protect the ones who need it most, the CHILDREN of our State.

Conclusions

The "Indictment". The indictment was very poorly written and poorly executed. The dates were inconsistent with the prosecution's effort to paint the mother as a "law breaker and flight risk". Based on the information we received, the dates listed in the indictment were within the legal limits spelled out in the final divorce decree's visitation schedule. It is incredible to believe that our court system would put a decent woman in jail for doing something completely legal during the indictment's window! Very poorly written indictment in our opinion.

The charge of "Fleeing Justice". Based on the evidence presented, we, the jury, were unanimous in agreeing with and supporting Ms. Titlemen in her beliefs that there were probable cause to protect her children. The evidence gave strong indication the children were being sexually molested by their father. Ms. Hakes, the Assistant Prosecutor, in her closing statements called Ms. Titlemen a "zealot" like Timothy McVeigh for wanting to take the law into her own hands and protect her children. I believe the majority of us on the jury have children. It was also unanimous that had we felt there was reason to believe our children were being a abused or neglected , and when seeking help, found the state (who is supposed to protect our children) unwilling to review the evidence in an unbiased light, would have reacted in similar ways.

"Taking the law into her own hands". We, the jury, saw Ms. Titlemen as someone desperately trying to use the legal system in Georgia to its fullest extent to protect her children, but to no avail. Then, when discovering more evidence of abuse, was left with no choice but to apply to the State of Mississippi for help. Although Ms. Hakes painted Ms. Titlemen as a manipulator and extremist, we felt that she was justified in using whatever means

necessary to protect her children. Ms. Hakes said over and over during her cross-examinations "the State of Georgia knows best how to protect its children". We are not so sure after sitting on the jury and seeing first hand the types of "guardian" and "counselors" that the State of Georgia appoints to protect our most precious resources and future taxpayers. Dr. King admitted under oath, the children told her they were being abused. Why then do the children remain in the custody of the accused when the State does not appear to have proved otherwise?

"Does Not Deserve Justice!". We, the jury, were horrified when Ms. Hakes told us in her closing statements that Ms. Titlemen didn't deserve justice. What does that mean?! Doesn't everyone deserves justice and aren't we all innocent until proven guilty? For the Assistance Prosecutor to openly say that a citizen doesn't deserve justice is an outrage and an insult to our justice system.

Court appointed zealots. The court appointed Guardians and Counselors were not credible and did all they could not to disclose real findings or intentions. Ms. Woods defied a State of Mississippi court order (within 24 hours) to protect the children from their father until additional hearings could take place and certain evidence be reviewed. Ms. King (a supposed expert) interrogated the children for two and one-half hours without taking any notes, or tapes, etc. She then appeared to try and cover up the disclosure of sexual abuse to the court when asked in direct questioning. Therefore, we found that there were several disclosures of sexual abuse but little evidence at all of recantations. Ms. Whitaker went so far as to say the children were "abducted"! This accusation further alienated the jury by displaying such blatant bias against the mother, Ms. Titlemen.

"Paid Expert Witness". Ms. Hakes was very careful to point out numerous times that the defense had hired "expert" witnesses who were paid for their services. Where is this wrong? We all got paid for doing what we considered our civil duty. Ms. Hakes gets paid, that state appointed guardians and counselors get paid, the judge and court employees get paid, so why did she feel this was such a big deal? Ms. Hakes tried to make it a huge deal by claiming the defense had "hired guns". The State's witnesses were pathetic in our opinion. They were poorly rehearsed, poorly accredited and overtly biased. At one point, Ms. King, when asked a direct question about children confiding to her that they had been abused by their father, turns to the judge and says, "I don't want answer that, they may get made at me". Would the State really get "mad" if she told the truth under oath?

In conclusion, the jury collectively felt that was divorce of Wendy and Andy Titlemen contained deep dividing issues. It was our wish that more information could have been disclosed to assist our decision. We all agreed that the custody and well-being of these minor children should be a major concern to Cobb County. A new group of unbiased experts needs to re-evaluate this case and bring closure regarding visitation that satisfies all parties if appropriate. It has been an honor to serve as the foreperson of this jury. I feel that this jury has served justice, and that the state's mishandling of this case has cost the taxpayers of Cobb County, Georgia a lot of money.

Regards,

/s/Bryan Wilson, (bryanewilson@email.com)
Foreperson

/s/ Donna M. Kimball /s/ Kimberly J. Savransky

/s/ Ann E. Klueter /s/ Cynthia P. Winter

/s/ Vicki L. Croft

APPENDIX Q

Lynn Brentnall, PhD
June 16, 1999

* * *

Alex told me that her father rubbed her a lot and it happened when they were in bed together. She said that Andy would get in bed with her to read her a story, but that instead he would rub her, sometimes reading, sometimes not. Alex said that this would happen in the morning or at night. When I asked her where Jenny was, she told me she was not sure. Maybe she was in another room or maybe she was asleep. I asked Alex if her father rubbed her anywhere else and she told me he rubbed her face and hair. Alex told me that her father told her that this was their secret and she was not to tell. He told her several times, not to tell.

/s/ L. Brentnall

APPENDIX R

Alpha Care
1770 The Exchange/Site 150
Atlanta, Georgia 300=339
Telephone (404) 916-9034
Fax (404) 976-9030

Adrienne R. McFall, Esquire
170 Gibbons Way
Athens, Ga 30605

Dear Ms. McFall,

* * *

I spent a total of 4 sessions with either one or both of the Titleman girls. Those sessions were on 9/9/99, 9/20/99, 10/4/99 and 11/2/99. During that time I concluded that both girls were suffering from tension and anxiety related to their parents relationship, separation anxiety from the lack of contact with their mother, and feelings of guilt and helplessness which is most commonly associated with childhood trauma. Based on the circumstances that the oldest child reported to me, I believe that this trauma was due to sexual abuse. Those circumstances were as follows: the girl's father allegedly would "tickle their bottom and private parts, sometimes under clothing; allegedly he would cause them to hurt, but the oldest child would work at not crying, and would try to act as if she were "thinking about something", because "he might get mad if I cried"; when she would ask him to stop, he would "act like he didn't hear me"; the oldest girl reported that her "daddy's bottom looks like he as a dragon's tail in the front"; the youngest girl allegedly would have to take bath's with her father; and that sometimes (allegedly) their father would

dress up like a girl with a wig, dress, nail polish and make-up.

On 9/9/99, I reported allegations of abuse to the proper authorities, Dept. of Fam. And Children Services. I spoke with Anita King on that date. On 9/17/00 I wrote a letter of follow-up to Valarie McKenzie due to the fact that I did not receive any response from Ms. King or the detective working the case, Amy Hendersen, after many attempts to contact via the phone for follow-up. On 9/30/99, I received a phone call from Martin Inman following up with me on the 2nd investigation. Martin was inquisitive about how I came to know of Wendy Titleman and what my impression of her was. He seemed to have a bias in his conversation at that time. . . .

Respectfully Sumbmitted

/s/ M. Diane Pearce, Ph.D.
Psychotherapist

APPENDIX S

J. Donald Matherne, Ph.D.
Report Of Psychological Consultation Report:
Alexandra Titelman
September 2, 2000

* * *

Alexandra was questioned specifically concerning the allegation of abuse. She was questioned initially about the issue of physical abuse. She said that her father hits her and her sister on their arms with his hand. She describes her father as someone who gets "real mad. He screams and yells." She claims that this situation makes her feel bad and she is scared of her father. She is afraid of him hitting her when he gets angry. She admits that he usually does not leave a mark on her when he hits her with his hand. She was also questioned concerning the issue of sexual abuse. She was shown Figure 9 of the Anatomical Drawings published by Forensic Mental Health Associates. This depicts the front view of a grammar school female child. This procedure is consistent with the methodology used by this clinician in the investigation of alleged sexual abuse as a consultant to the Harrison County Youth Court, Jackson County Youth Court, Stone County Youth Court and Hancock County Youth Court.

Alexandra stated that her father has touched her under her clothing on her genital area, which has made her feel very uncomfortable. This usually has happened when she is in bed and "he thinks that I am asleep, but I am pretending. He comes in my room." She said this happened "when my mother was not living in the home." She said that when her father touches her in this manner, "it makes me feel like he doesn't love me." She was questioned concerning whether or not she was of the opinion that this touching was accidental or on purpose. In her opinion, he3r father

has touched her in a sexual manner on purpose. She was questioned concerning whether or not she understands the difference between the truth and a lie. She was very consistent in indicating an unde3rstanding of the difference between the truth and a lie. She is insistent that she is telling the truth. She was asked to draw a circle around the area on the anatomical drawing where she alleges that her father touched her. She circled the genital area and put an X over the opening of the vagina indicating the exact location where she alleges that her father had touched her. She was asked to write her name for the purpose of authenticity. A copy of this anatomical drawing is enclosed for further review.

This clinician used the fist demonstration to more specifically depict the alleged abuse. Alexandra was asked to close one hand and think of this as her genital area. She was then asked to take her other hand and think of this as her father's hand. She was then asked to show specifically what she remembers having happen to her. She took her left hand and rubbed it across her closed right fist. She said "he thought I was asleep." She said that she told her mother, because she wanted "my mom to help me." She was asked how she specifically felt about what had happened. She said, "I just didn't like him anymore because he did that." She was asked if she had provided this information to anyone else. She said that in her conversations with Dr. Elizabeth King, she had made mention of this, but Dr. King "didn't ask me questions about this. I mentioned it to her, but she was not interested in talking about it." She was then asked why she thought that Dr. King was not interest. Alexandra response to this question was "because she was more interested in going on to another subject immediately!"

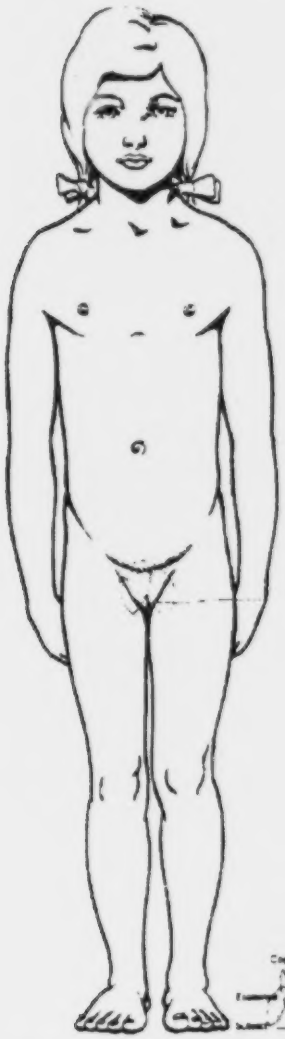
She claims that this touching of her by her father has happened a couple more times since the last school year.

She said that this has happened as recent as this summer. She said it occurred at home when she was in bed. She was specific in indicating that the room was dark, but "I knew it was him because he is really, really, really, really hairy. I peeked. He had a blue shirt on that said Amoco." She was asked if it was possible that her father had touched her in an accidental manner. She said "no because he took his hand and put it under my jammies. He rubbed me on my pee pee hole." She was asked if she thought that this would happen again. She said she is afraid that it will happen again because "if I was alone with him, probably" it would happen again. She was asked if anyone had told her to make up a lie about this situation. She stated no one had asked her to say this because "it is not made up, because what happened to me really happened."

* * *

It is this clinician's clinical opinion that Alexandra is in immediate danger of irreparable harm and/or further sexual abuse if she returns to the custody of her father at this time. It is recommended that she remain in the custody of her mother until there is an opportunity for the allegation of sexual abuse to be specifically substantiated through the court of jurisdiction. . . .

/s/ J. Donald Matherne, Ph.D.



Copyright 1984 by FORENSIC MENTAL HEALTH ASSOCIATES

9-2-00

Figure 9. White, grammar-school female child (front view)

J. Donald Matherne, Ph.D.
Report Of Psychological Consultation Report: Jennifer Titelman
September 2, 2000

* * *

In questioning Jennifer about her relationship with her parents, she noted that she relates well with her mother, but not as well with her father. She describes her father as "yelling at me and Alex. He has hit me on the arm with his hand because he gets angry." She expresses a preference to live with her mother, because her mother is nicer and does not yell at her nor does her mother hit her like her father hits her.

* * *

The child was shown Figure 9 of the Anatomical Drawings published by Forensic Mental Health Associates. This anatomical drawing depicts the front view of a grammar school female child. Jennifer stated that her father has touched her on prior occasions under her clothing on her genital area. She stated that there has never been any digital penetration or penial penetration. She also denies that there has been any history of oral sex. She indicated that when her parents were not living together this physical touching occurred when she would stay with her father. She said that her father "reached under and touched me there." She said that he would reach under her clothing and touch her on her genital area. When shown Figure 9, she pointed to the genital area in the drawing. She was asked to draw a circle around the area in question. She was also asked to put an X exactly at the location in question. She was then asked to write her name for the purpose of authenticity. A copy of this drawing is enclosed for further review. She said that this would typically happen when she had been asleep in bed. She said that when she felt herselfbeing touched "it would wake me up." She believes that her father was under the

impression that she was asleep and not aware that she could feel him touching her in this manner. Jennifer claims that she had provided this information to Dr. Elizabeth King, a psychologist on prior occasions, but Dr. King did not seem interested in this situation. The child denies that anyone had told her to make up this situation. . . .

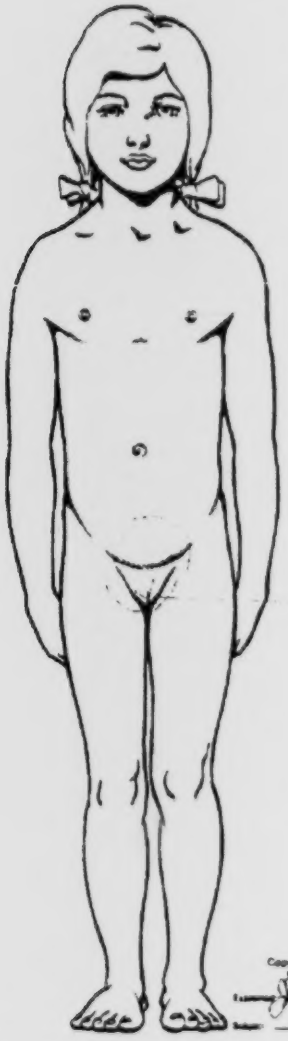
* * *

. . . It is apparent from the information obtained at this time that the child is alleging that her father did touch her in a sexual inappropriate manner on multiple occasions, typically when he did not realize that she was awake and aware of this physical contact. The child does not appear to have been prompted. The child knows the difference between the truth and a lie. The child emphatically states that she is being truthful about having been touched in this manner. She is not wanting to return to live with her father for fear of what may happen in the future. She expresses a very definite preference to remain in the care, custody and supervision of her mother. She feels safer in this environment.

Overall, this clinician is of the opinion that this child if returned to her father is in immediate danger or irreparable harm and/or further sexual abuse. This opinion is based upon the child's allegation of having been touched by her father in a sexual inappropriate manner under her clothing on her genital area. The child indicates that this has happened before her parents separation as well as since she has been living with her father. This clinician is of the opinion that the allegation of sexual abuse is substantiated.

* * *

/s/ J. Donald Matherne, Ph.D.



Copyright 1984 by FORENSIC MENTAL HEALTH ASSOCIATES

Figure 9: White, grammar-school, female child (front view)